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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD R. OEHLER and WILLIAM G. KULPA

Appeal 2009-005616
Application 09/932,456
Technology Center 2400

Before, ROBERT E. NAPPI, JOHN C. MARTIN,
and JOSEPH F. RUGGIERO, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1-17, 19,² 21-32, 34, and 36-41. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse the Examiner's rejections of these claims.

INVENTION

The invention is directed to a system and method for partitioning computer system resources by using a data routing mechanism to create a plurality of routing tables associated with the system's processors. *See* Spec: 1-5. Claim 1 is representative of the invention and reproduced below:

1. A computer system, comprising:
 - a plurality of resources including a plurality of processors;
 - a distributed point-to-point transmission infrastructure for interconnecting the plurality of processors; and
 - at least one partitioning processor for configuring the plurality of resources into a plurality of partitions, each partition comprising a subset of the plurality of resources and a portion of the point-to-point transmission infrastructure, the portion of the point-to-point transmission infrastructure in each partition being distinct from and non-overlapping with the portion of the point-to-point transmission infrastructure in each other partition, the at least one partitioning processor being operable to configure the resources by writing to at least one of a plurality of routing tables associated with the processors according to a previously specified partitioning schema, each routing table representing

² We note that claims 19 and 34 depend upon cancelled claims 18 and 33 that were dependent upon claims 1 and 23, respectively. As such, we construe claim 19 to be dependent upon independent claim 1 and claim 34 to be dependent upon claim 23.

dedicated physical links between an associated processor and other ones of the plurality of processors, the links corresponding to portions of the point-to-point transmission infrastructure.

REFERENCES

Neches	US 5,303,383	Apr. 12, 1994
Lorenzen	US 6,188,759 B1	Feb. 13, 2001
Van Doren	US 2001/0037435 A1	Nov. 1, 2001 (filed Mar. 21, 2001)
Masuyama	US 6,961,761 B2	Nov. 1, 2005 (filed May 17, 2001)

REJECTIONS AT ISSUE

Claims 1-17, 19, 21-32, 34, and 36-41 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Ans. 3-4.

Claims 1-4, 6-10, 12-13, 16, 21, 23-26, 28, 31, 36-37, and 39-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) in view of Neches. Ans. 4-10.

Claims 1, 15, 23, 30, 36, and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Neches and Masuyama. Ans. 10-11.

Claims 1, 5, 11, 19, 22-23, 27, 34, 36, 38-39, and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Neches and Van Doren. Ans. 11-12.

Claims 1, 14, 17, 23, 29, 32, 36, and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Neches and Lorenzen. Ans. 12-14.

ISSUES

35 U.S.C. § 112, first paragraph rejections

Appellants argue on pages 6-7 of the Reply Brief that the Examiner's rejection of claims 1-17, 19, 21-32, 34, and 36-41 under 35 U.S.C. § 112, first paragraph is in error. Appellants select claim 1 as representative of the group comprising claims 1-17, 19, 21-32, 34, and 36-41. Reply Br. 6. Appellants argue that their Specification contains support for the claim limitation "the portion of the point-to-point transmission infrastructure in each partition being distinct from and non-overlapping with the portion of the point-to-point transmission infrastructure in each other partition," as claimed in claim 1. Reply Br. 6-7.

Thus, with respect to claims 1-17, 19, 21-32, 34, and 36-41, Appellants' contentions present us with the issue: Did the Examiner err in finding that claim 1 fails to comply with the written description requirement of 35 U.S.C. § 112, first paragraph?

35 U.S.C. § 103(a) rejections

Appellants argue on pages 6-10 of the Appeal Brief and pages 4-5 of the Reply Brief that the Examiner's rejection of claims 1-17, 19, 21-32, 34, and 36-41 is in error. Appellants select claim 1 as representative of the group comprising claims 1-17, 19, 21-32, 34, and 36-41. App. Br. 6-9. Appellants argue that the combination of AAPA and Neches is improper

since they are incompatible and do not result in operable systems. App. Br. 7; Reply Br. 4.

Thus, with respect to claims 1-17, 19, 21-32, 34, and 36-41, Appellants' contentions present us with the issue: Did the Examiner err in finding it obvious to combine AAPA with Neches?³

PRINCIPLES OF LAW

35 U.S.C. § 112, first paragraph, states that “[t]he specification shall contain a written description of the invention . . . in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, . . . to make and use the same” To satisfy the description requirement, one must show “possession” of the invention by describing the claimed invention, with all its claimed limitations, using descriptive means such as words, structures, figures, diagrams, formulas, etc. *See Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997). While the prior application need not describe the claimed subject matter in exactly the same terms as used in the claims, the specification must contain an equivalent description of the claimed subject matter. *Id.*

ANALYSIS

35 U.S.C. § 112, first paragraph rejections

Appellants' arguments have persuaded us of error in the Examiner's rejection of claim 1. The Examiner finds that Appellants' Specification does

³ Appellants make additional arguments regarding claims 1-17, 19, 21-32, 34, and 36-41. App. Br. 8-10; Reply Br. 4-5. We do not reach these additional issues since the issue of whether it is obvious to combine AAPA with Neches is dispositive of the case.

not support the limitation “point-to-point transmission infrastructure in each partition being distinct from and non-overlapping with any other point-to-point transmission infrastructure partition” as the specification does not use the terms “distinct or “non-overlapping.” Reply Br. 9. Appellants argue that Figure 3 of the Specification inherently discloses both distinct and non-overlapping partitions. Reply Br. 7. As shown in Figure 3, dedicated and physical links exist between each of the processors. Reply Br. 7. In order to partition these processors, these links are enabled and/or disabled. Reply Br. 7. This design, therefore, “precludes the possibility of one link being included in more than one partition.” Reply Br. 7. The Examiner has not addressed the Appellants’ statement that these limitations are inherent and we find Appellants’ explanation of inherency to be reasonable. As such, we are persuaded by Appellants’ arguments and we do not sustain the Examiner’s rejection of claim 1 and claims 2-17, 19, 21-32, 34, and 36-41 that have been grouped with claim 1.

35 U.S.C. § 103(a) rejections

Appellants’ arguments have persuaded us of error in the Examiner’s rejection of claim 1. Appellants argue that Neches’s network 14 is an indivisible switch fabric that provides multiple, redundant, and dynamically configurable paths between each PM (processor module) 12 and any other PM 12 and thus is not a “point- to-point transmission infrastructure” that includes “dedicated physical links” between the processors, as described and claimed in the present application. App. Br. 6-7. According to Appellants, “as used in Neches, the term ‘point-to-point’ refers to a communication protocol rather than the transmission infrastructure which, instead of being a

point-to-point transmission infrastructure, is a hierarchical switch fabric. See, for example, column 6, lines 26-51, and column 7.” (App. Br. 6.)

Appellants further argue that Neches and AAPA cannot be combined because they are not compatible with one another for several reasons. App. Br. 6-7. One reason is that in order for Neches to operate, the multi-stage interconnect network (MIN), that routes packets from every input port to every output port, would also have to act as an undivided resource among processor modules and therefore cannot be partitioned. App. Br. 7. The Examiner, addressing Appellants’ arguments against combining the reference teachings, finds, *inter alia*, that the references are either from the same field of applicant’s endeavor or are reasonably pertinent to the applicant’s particular problem. Ans. 15. However, the Examiner’s Answer fails to address Appellants’ above-noted argument that Neches fails to disclose a point-to-point transmission infrastructure. As a result, we will not sustain the Examiner’s rejection of claim 1 and claims 2-17, 19, 21-32, 34, and 36-41, which are grouped with claim 1.

CONCLUSION

The Examiner erred in finding that claim 1 fails to comply with the written description requirement of 35 U.S.C. § 112, first paragraph.

The Examiner has not demonstrated that it would have been obvious to combine AAPA with Neches.

SUMMARY

The Examiner’s decision to reject claims 1-17, 19, 21-32, 34, and 36-41 under 35 U.S.C. § 112, first paragraph is not sustained.

Appeal 2009-005616
Application 09/932,456

The Examiner's decision to reject claims 1-17, 19, 21-32, 34, and 36-41 under 35 U.S.C. § 103(a) is not sustained.

REVERSED

ELD

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